1   IN THE UNITED STATES DISTRICT COURT

2   FOR THE NORTHERN DISTRICT OF CALIFORNIA

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4 ROBERT ELLIS,   No. C 12-5673 CW (PR)

5   Petitioner,   ORDER DISMISSING
                                     PETITION AND GRANTING

6   v.   LEAVE TO PROCEED <u>IN</u>
                                     <u>FORMA PAUPERIS</u>

7 RICK HILL, Warden,
                                     Docket no. 2

8   Respondent.

9 _____/

10   Petitioner, a state prisoner, has filed the present <u>pro se</u>

11 petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254,

12 challenging his 1998 conviction for murder and attempted murder.

13 Petitioner previously challenged the same conviction in a habeas

14 petition that was denied on the merits. <u>See</u> <u>Ellis v. Roe</u>, Case

15 No. C 01-3141 MMC (PR). Since that denial, this Court has denied,

16 under 28 U.S.C. § 2244, several attempts by Petitioner to present

17 a renewed challenge to his conviction without prior approval from

18 the Ninth Circuit. <u>See</u> <u>Ellis v. Hill</u>, Case No. C 11-05389 CW

19 (PR); <u>Ellis v. Hill</u>, Case No. C 11-05121 CW (PR); <u>Ellis v. Hill</u>,

20 Case No. C 09-00351 CW (PR).

21   A second or successive petition containing previously raised

22 or new claims may not be filed in the district court unless the

23 petitioner first obtains from the United States Court of Appeals

24 an order authorizing the district court to consider the petition.

25 28 U.S.C. § 2244(b)(3)(A). Petitioner has not obtained such

26 authorization. Notably, he has attached to the present petition

27 an order filed by the Ninth Circuit on August 7, 2012, denying his

28 application to that court for authorization to file a second or

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1 successive petition.

2   Because Petitioner here has not obtained prior approval from

3 the Ninth Circuit for this Court to consider his renewed challenge

4 to his conviction in the present petition, the petition is

5 DISMISSED without prejudice to Petitioner's filing a petition in

6 this Court if he obtains the necessary order from the Ninth

7 Circuit.

8   In light of Petitioner's lack of funds, his applications to

9 proceed in forma pauperis are GRANTED.

10   The Clerk of the Court shall terminate all pending motions in

11 the present action, enter judgment and close the file.

12   This Order terminates Docket no. 2.

13   IT IS SO ORDERED.

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15 Dated: 11/19/2012   _____
                                        CLAUDIA WILKEN
16   United States District Judge

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